

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9180 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

AT ODEDARA THROUGH PARTNER

Versus

GEB

Appearance:

MR AJ SHASTRI for Petitioner
MR RC JANI for Respondents.

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 04/10/1999

ORAL JUDGEMENT

Leave to annex a copy of impugned order dt.
13/11/1997 passed by the Appellate Committee of Gujarat
Electricity Board. Rule. Mr. R.C.Jani waives service
of rule on behalf of all respondents.

2. Electrical Meter installed at the petitioner's
factory for stone crushing situate in village Dharmpur,
Tal. Khambaliya, Dist. Porbandar (Consumer No. 32001/

50095/5) was checked by the Checking Squad of respondent Board on 11/6/1996 and Supplementary Bill for Rs. 4,32,128/- was issued on the basis that petitioner had committed theft of energy. The petitioner deposited 30% of the said amount and preferred appeal before the Appellate Committee of the Board under Clause 34 of the Conditions of Supply. The Appellate Committee, by order dt. 5/11/1997, partly allowed the appeal and directed the respondent Board to revise the Special Bill considering not chargeable days as 140 days i.e. Days 140 x 24 hrs, keeping other parameters of the ABCD formula unchanged. The petitioner, being aggrieved by the said order, has filed the present petition under Articles 226 and 227 of the Constitution.

3. In Para 5 of the petition, the petitioner has stated that at the time of actual hearing before Appellate Committee on 25/9/1997, the present petitioner was sick and as such could not attend the hearing but his representative was sent for making a request for a short time so as to enable the present petitioner to make effective explanation. But the said request was not considered and as such the written submission on the very day was presented in which also relevant documents were annexed. A request was made to grant some short time but since the reply was presented, the Appellate Committee proceeded to hear in the matter. On behalf of the petitioner, his Accountant -Govindbhai Madhavji Modha has filed further affidavit stating that on the date of hearing, he was asked by the petitioner to attend and go with a request for adjournment as Mr. Lilabhai A. Odedara was sick. He went and requested the authority to postpone the hearing for three to four days but the Appellate Committee persuaded him to hand over the file and he was asked to submit the written reply taken from the file. He had stated before the Appellate Committee that he had no authority to attend, nor was he permitted to represent but the said reply was taken and he was asked to go away and told that later on intimation will come about the hearing. Under the circumstances, it appears that the petitioner was not given proper opportunity of hearing before the Appellate Committee. The impugned order of the Appellate Committee is, therefore, set aside only on that ground and the Appellate Committee is directed to decide the appeal afresh after intimating the date of hearing to the petitioner. The learned advocate for the petitioner states that the petitioner will co-operate in hearing of the appeal and will remain present on the first date of hearing, when the date is intimated to him. Rule made absolute accordingly. No order as to costs.

Date: 4/10/1999. -----
(ccshah)